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9 IN THE UNITED STATES DISTRICT COURT  
10 FOR THE TERRITORY OF GUAM

11 UNITED STATES OF AMERICA, ) CRIMINAL CASE NO. 08-00008  
12 )  
Plaintiff, )  
13 )  
vs. ) **RESPONSE TO DEFENDANT'S**  
14 ) **MOTION TO SUPPRESS STATEMENTS**  
FREDA ESEUN, )  
15 )  
16 Defendant. )

17 Comes now the plaintiff, United States of America, by and through its undersigned  
18 attorney, and moves this Honorable Court to deny the defendant Freda Eseun's Motion to  
19 Suppress. This opposition is based on the following memorandum of points and authorities, the  
20 record in the Court's files, and any oral arguments and evidence that will be produced at the  
21 hearing in this matter.

22 **STATEMENT OF FACTS**

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24 On January 13, 2008, at 12:15 a.m., Ms. Elizabeth Aizawa and a young Chuukese woman  
25 identified as So. S. attempted to retrieve a passport from Song Ja Cha, Owner of the "Blue  
26 House". Song Ja Cha refused to return the passport to So.S. Song Ja Cha told So. S. that since  
27 she owned her money for a plane ticket and passport, she must sign a piece of paper, and then

1 Song Ja Cha would call the police. Hearing this threat, Elizabeth Aizawa and So. S. contacted  
2 Guam Police. Criminal Investigative Services (“CIS”) received the complaint that Song Ja Cha  
3 was withholding a passport from the So. S. C.I.S. dispatched Officers, including an Officer  
4 fluent in the Chuukese language to the Blue House. Elizabeth Aizawa and So.S. were  
5 interviewed.

6 So. S. told the police that she was deceived into traveling to Guam to work at a restaurant  
7 job at the Blue House. Upon arrival, her passport was taken from her by In Han Cha, who  
8 handed it to Song Ja Cha. While in the Blue House, So.S. was instructed to sit in the kitchen and  
9 wait. So. S. realized that Blue House was not a restaurant, but a bar or nightclub. Song Ja Cha  
10 drove So.S. to a residence in Yigo, handed a man cash and left So.S. there. While at the  
11 residence, So.S. learned that the Blue House was place where young Chuukese girls were forced  
12 to perform sexual acts on male customers.

13 Guam Police Officers contacted Song Ja Cha at the Blue House. Song Ja Cha claimed  
14 she did not have So.S.’s passport. Song Ja Cha produced passports belonging to L.P., D.R.,  
15 M.C., and Si.S. Song Ja Cha told Police that she possessed their passports because she was  
16 processing their health certificates and clearances. So.S. then asked the Police to bring out her  
17 two relatives – L.P. and M.C. Song Ja Cha stated there were no persons by those names in the  
18 Blue House. Officer Tan entered the Blue House and located L.P. and M.C. within the Blue  
19 House. They asked him to help D.R. and Si.S. get out of the Blue House. Officer Tan saw D.R.  
20 exit from a Comfort Room (#3) and noted a shirtless male, clinging to his unbuckled pants, and  
21 trying to hide behind a wall. Officer Tan spoke to the customer who stated that he was merely  
22 “kissing” D.R. because he was unable to afford sexual activity. D.R. later told Officer Tan that  
23 the customer paid \$40 to engage in sexual activity and that he was touching her private parts, her  
24 vagina and breasts when Police arrived.

25 Each of the young women related that they were deceived into traveling to the Blue  
26 House believing they would be employed in a restaurant/waitress/store clerk capacity. Each of  
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1 the young women related that upon arrival in Guam, their passports were taken by Song Ja Cha,  
2 In Han Cha, Freda Eseun or Saknin Weria. Each of the young women related that they were  
3 locked within the Blue House, and coerced into engaging in sexual acts with male customers.  
4 The young women also related that food was withheld from them if they refused to perform  
5 sexual acts. They related that their phone calls were monitored, and that Freda Eseun and Saknin  
6 Weria enforced Song Ja Cha's instructions. They were very fearful of Song Ja Cha (known to  
7 them as "MamaSan") and In Han Cha (known to them as "PapaSan"). They also related that  
8 they were not permitted to contact their relatives or discuss what transpired at the Blue House.  
9 It is anticipated that Officers will testify that the property was seized approximately 8-9:00 a.m.  
10 on Sunday, January 13, 2008.

11 On January 13, 2008 at approximately 5:45 p.m., Freda Eseun was advised of her  
12 constitutional rights. (See Attached Exhibit "A"). Notably, the educational level of the  
13 defendant is listed "9<sup>th</sup> Grade JFK, 2002". Freda Eseun indicated through the use of interpreter  
14 Officer Bia A. Nanoto that she was employed at the blue House from 2006-2007. She quit her  
15 employment in September 2007 and returned to the Blue House in October 2007. She then made  
16 admissions that she engaged in sexual activities for monetary payment, that she monitors the  
17 other girls to make sure that they do not leave the Blue House, that she monitors their phone  
18 calls, and that she prevents them from running away. Other statements will be detailed in full at  
19 the suppression hearing.

#### 20 **MEMORANDUM OF POINTS AND AUTHORITIES**

21 For inculpatory statements made by a defendant during custodial interrogation to be  
22 admissible in evidence, the defendant's "waiver of Miranda rights must be voluntary, knowing,  
23 and intelligent." Miranda v. Arizona, 384 U.S. 436, 479 (1966). A valid waiver of Miranda  
24 rights depends upon the "totality of the circumstances including the background, experience, and  
25 conduct of defendant." United States v. Bernard S., 795 F.2d 749 (9<sup>th</sup> Cir. 1986). The  
26 prosecution bears the burden of proving by a preponderance of the evidence that a defendant  
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1 knowingly and intelligently waived her Miranda rights. Colorado v. Connelly, 479 U.S. 157  
2 (1986). To satisfy this burden, the prosecution must introduce sufficient evidence to establish  
3 that under the “totality of the circumstances,” the defendant was aware of “the nature of the right  
4 being abandoned and the consequences of the decision to abandon it.” Moran v. Burbine, 475  
5 U.S. 412, 421 (1986). “The following considerations guide our inquiry: (1) whether the  
6 defendant signed a written waiver. Bernard S., 795 F.2d at 752-753; United States v. Bautista-  
7 Avila, 6 F.3d 1360, 1365 (9<sup>th</sup> Cir. 1993); (2) whether the defendant was advised of his rights in  
8 his native tongue, see *id.*; United States v. Gonzales, 749 F.2d 1329, 1336 (9<sup>th</sup> Cir. 1984); (3)  
9 whether the defendant appeared to understand his rights, see *id.*; (4) whether a defendant had the  
10 assistance of a translator, see Bernard S., 795 F.2d at 752-753; (5) whether the defendant’s rights  
11 were individually and repeatedly explained to him, see Derrick, 924 F.2d at 824; and (6) whether  
12 the defendant had prior experience with the criminal justice system, see Glover, 595 F.2d at 865.

13 Here, each of these circumstances are present with the exception of prior criminal justice  
14 experience. First, defendant signed a written waiver. Defendant was read the Custodial  
15 Interrogation Form which was translated for her into her native language, the Chuukese  
16 language. She indicated that she understood her right to remain silent, that anything she said can  
17 and would be used against her in a court of law, that she had the right to counsel, that one could  
18 be afforded for her prior to questioning, and that if she answered questions now without her  
19 lawyer, she would have the right to stop answering at any time. In addition to placing her  
20 initials after each statement, she placed her signature under the statement: “I have read this  
21 statement of my rights and I understand what my rights are. I am willing to make a statement  
22 and answer questions. I do not want a lawyer at this time. I understand and know what I am  
23 doing. No promises or threats have been made to me and no pressure or coercion of any kind  
24 has been used against me.”

25 Defendant was advised her rights in her native tongue. The rights were advised to her by  
26 Officer Bia Nanoto, Guam Police Department. Defendant appeared to understand her rights and  
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1 had the assistance of a translator. The defendant's rights were read to her and explained to her.  
2 Defendant attended a U.S. high school, John F. Kennedy High School on Guam. She lives and  
3 works on Guam. It is anticipated that the testimony at the suppression hearing will demonstrate  
4 that the defendant's confession was voluntary under the totality of the circumstances test.

5 **CONCLUSION**

6 The Government respectfully requests that defendant's Motion to Suppress be denied.

7 DATED this 9<sup>th</sup> day of May, 2008.

8 LEONARDO M. RAPADAS  
9 United States Attorney  
Districts of Guam and CNMI

10 By: /s/ Rosetta L. San Nicolas  
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